

Multiple Agency Fiscal Note Summary

Bill Number: 5536 S SB	Title: Controlled substances
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Health	0	0	8,000	0	0	19,000	0	0	24,000
Total \$	0	0	8,000	0	0	19,000	0	0	24,000

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		(97,000)		(148,000)		(175,000)
Local Gov. Total		(97,000)		(148,000)		(175,000)

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Joint Legislative Audit and Review Committee	.1	0	0	22,100	.0	0	0	9,000	.0	0	0	9,000
Administrative Office of the Courts	.0	1,900	1,900	1,900	.0	0	0	0	.0	0	0	0
Office of Public Defense	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Attorney General	.0	0	0	0	.0	0	0	0	.0	0	0	0
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Commerce	.1	36,956	36,956	36,956	.0	0	0	0	.0	0	0	0
Washington State Health Care Authority	Fiscal note not available											
Department of Revenue	3.2	733,700	733,700	733,700	1.3	279,000	279,000	279,000	1.3	279,000	279,000	279,000
Washington State Patrol	.0	0	0	0	.0	0	0	0	.0	0	0	0
Criminal Justice Training Commission	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Health	1.2	329,000	329,000	344,000	.8	197,000	197,000	233,000	.7	192,000	192,000	206,000
Department of Children, Youth, and Families	.0	2,304,000	2,304,000	2,304,000	.0	2,304,000	2,304,000	2,304,000	.0	2,304,000	2,304,000	2,304,000
Department of Children, Youth, and Families	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Department of Corrections	.0	2,760	2,760	2,760	.0	0	0	0	.0	0	0	0
University of Washington	.0	13,347	13,347	13,347	.0	0	0	0	.0	0	0	0
The Evergreen State College	.0	0	0	0	.2	71,110	71,110	71,110	.4	204,037	204,037	204,037
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	4.6	3,421,663	3,421,663	3,458,763	2.3	2,851,110	2,851,110	2,896,110	2.4	2,979,037	2,979,037	3,002,037

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts			45,432,000			45,432,000			45,432,000
Loc School dist-SPI									
Local Gov. Other			3,839,760			1,407,500			
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Local Gov. Total			3,839,760			1,407,500			

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Joint Legislative Audit and Review Committee	.0	0	0	.0	0	0	.0	0	0
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Public Defense	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Commerce	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Washington State Health Care Authority	Fiscal note not available								
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Criminal Justice Training Commission	.0	0	0	.0	0	0	.0	0	0
Department of Health	.0	0	0	.0	0	0	.0	0	0
Department of Children, Youth, and Families	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
University of Washington	.0	0	0	.0	0	0	.0	0	0
The Evergreen State College	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Department of Commerce	Non-zero but indeterminate cost and/or savings. Please see discussion.
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Prepared by: Cynthia Hollimon, OFM	Phone: (360) 810-1979	Date Published: Preliminary 3/ 7/2023
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Individual State Agency Fiscal Note

Revised

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 014-Joint Legislative Audit and Review Committee
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.0	0.1	0.0	0.0
Account					
Performance Audits of Government Account-State 553-1	17,600	4,500	22,100	9,000	9,000
Total \$	17,600	4,500	22,100	9,000	9,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Dana Lynn	Phone: 360-786-5177	Date: 03/02/2023
Agency Approval: Eric Thomas	Phone: 360 786-5182	Date: 03/02/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/03/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

The bill creates a new property tax exemption for nonprofit organizations that maintain an approved recovery residence.

The only section of the bill with an impact for JLARC is Part IV, sections 17 and 18.

SECTION 17 amends RCW 84.36.043 to add a new real and personal property tax exemption for nonprofit organizations to maintain an approved recovery residence registered under RCW 41.05.760 when certain criteria (noted in the bill) are met. The preference applies to taxes levied for collection in calendar years 2024 through 2033.

TAX PERFORMANCE STATEMENT DETAILS

SECTION 18 is the tax preference performance statement that categorizes the preference as intended to provide tax relief to certain businesses or individuals, as indicated in RCW 82.32.808(2)(e). The Legislature's specific public policy objective is to maximize funding for recovery residences to the extent possible, thus increasing availability of such residences.

To measure the effectiveness of the tax preference, JLARC must evaluate:

- Annual changes in the total number of parcels qualifying for the exemption.
- The amount of annual property tax relief resulting from the tax exemption.
- The average annual number of people housed at recovery residences located on property qualifying for the exemption.
- The annualized amount charged for housing at recovery residences located on qualifying property and the annualized estimated increase in the charge for housing if the properties had not been eligible for the exemption.
- The annual amount of expenditures by nonprofits to maintain recovery residences located on qualifying property.

The Legislature intends to extend the expiration date of the preference if a JLARC review finds that:

- The number of properties qualifying for the exemption has increased.
- The number of individuals using recovery housing located on qualifying property has increased.
- The amount charged for recovery housing is reasonably consistent with the actual cost of operating and maintaining the housing.

To obtain data to perform the review, JLARC staff is directed to refer to:

- Initial applications for the tax exemption as approved by the Department of Revenue under RCW 84.36.815.
- Annual financial statements prepared by nonprofit entities claiming the exemption.
- Filings with the federal government to maintain federal tax exemption status by nonprofit organizations claiming the exemption.
- Any other data necessary for the evaluation.

The act takes effect October 1, 2023.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

JLARC staff would contact and work with the Department of Revenue and other appropriate agencies immediately after passage of the bill to ensure project contacts are established and any other necessary data for JLARC staff’s future evaluation needs are identified and collected. The tax preference is scheduled to apply to property taxes collected for calendar years 2024 through 2033. JLARC usually reviews tax preferences so that there are two legislative sessions between the JLARC review and the expiration date. Based on this, JLARC would likely schedule this preference for review in 2031.

The expenditure detail reflects work conducted to prepare for the future review of the preferences. Costs associated with the review are not included in this fiscal note. This fiscal note reflects only the costs associated with establishing data collection and collecting preliminary data in preparation for the 2031 review.

This tax preference review may require additional resources. The audit will be conducted and presented to JLARC consistent with the processes used for other tax preference reviews. Based on all tax preference legislation that is passed, JLARC may subsequently determine that it can absorb the costs for this proposed bill in its base budget, if the workload of other enacted tax preference legislation does not exceed current staffing. JLARC will assess all of the tax preference reviews mandated in the 2023 legislative session.

This audit will require an estimated 2 audit months.

JLARC Audit Months: JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst’s time for a month, together with related administrative, support, and goods/services costs. JLARC’s anticipated 2023-25 costs are calculated at approximately \$22,100 per audit month.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
553-1	Performance Audits of Government Account	State	17,600	4,500	22,100	9,000	9,000
Total \$			17,600	4,500	22,100	9,000	9,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
A-Salaries and Wages	11,400	2,900	14,300	5,800	5,800
B-Employee Benefits	3,600	900	4,500	1,800	1,800
C-Professional Service Contracts					
E-Goods and Other Services	2,400	600	3,000	1,200	1,200
G-Travel	200	100	300	200	200
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	17,600	4,500	22,100	9,000	9,000

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Research Analyst	126,694	0.1		0.1		
Support staff	89,671					
Total FTEs		0.1		0.1		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Judicial Impact Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

STATE	FY 2024	FY 2025	2023-25	2025-27	2027-29
State FTE Staff Years					
Account					
General Fund-State 001-1	1,900		1,900		
State Subtotal \$	1,900		1,900		
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
Account					
Local - Counties	13,009,000	13,009,000	26,018,000	26,018,000	26,018,000
Counties Subtotal \$	13,009,000	13,009,000	26,018,000	26,018,000	26,018,000
CITY	FY 2024	FY 2025	2023-25	2025-27	2027-29
City FTE Staff Years					
Account					
Local - Cities	9,707,000	9,707,000	19,414,000	19,414,000	19,414,000
Cities Subtotal \$	9,707,000	9,707,000	19,414,000	19,414,000	19,414,000

Estimated Capital Budget Impact:

NONE

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note for Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 02/17/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 02/17/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/19/2023

183,504.00

Form FN (Rev 1/00)

Request # 163-1

Bill # 5536 S SB

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

The substitute bill would merge portions of the original SB 5536 and SB 5624. The fiscal impacts of the substitute are related to the original impacts of SB 5536 to the Administrative Office of the Courts (AOC) and the courts where the bill would amend and add new sections to laws relating to the justice system and behavioral health responses for persons experiencing circumstances that involve controlled substances, counterfeit substances, legend drugs, and drug paraphernalia.

The following sections of the bill would decrease the annual number of cases before superior courts by changing certain drug offenses from a felony to a misdemeanor and, as a result, increase the annual number of cases before the courts of limited jurisdiction. Additionally, these cases are expected to take more court time because additional hearings would be needed in each case.

* Section 2 would make knowing possession of a counterfeit substance as a gross misdemeanor. It encourages prosecutors to divert such cases for assessment, treatment, and other services; encourages law enforcement officers to refer the defendant to assessment and services; and requires the court to advise the defendant of the pretrial diversion program as indicated in Section 9 of the bill.

* Section 3 would make a person who “knowingly” possesses a controlled substance a gross misdemeanor instead of a C Felony. It encourages prosecutors to divert such cases for assessment, treatment, and other services; encourages law enforcement officers to refer the defendant to assessment and services; and requires the court to advise the defendant of the pretrial diversion program as indicated in Section 9 of the bill.

* Section 4 would provide for the same diversion options for possession of forty grams or less of cannabis.

* Section 5 would maintain “knowing” possession of any legend drug as a misdemeanor and add the same diversion options in previous sections of the bill.

* Section 7 would remove the act of giving drug paraphernalia from actions considered as a class 1 civil infraction.

Section 9 would require the court to notify the defendant of the pretrial diversion program which the courts would need to create or, if available, utilize existing therapeutic courts. The assumption is that about 50 percent of the defendants will choose the pretrial diversion program alternative.

Section 10 would edit the vacate rules to allow someone that was convicted of a possession charge to get their charge vacated upon petition if they provide proof of subsequently completing an approved substance use disorder treatment program. This would require an update of court forms.

II. B - Cash Receipts Impact

None

II. C - Expenditures

This bill would have fiscal impact on the AOC, superior courts, and the courts of limited jurisdiction. The impact to the courts difficult to accurately estimate. This judicial impact note makes a best estimate of the number of cases that would shift from superior courts to courts of limited jurisdiction based upon superior court caseload data.

ADMINISTRATIVE OFFICE OF THE COURTS

COURT FORMS

This bill would require changes to the vacatur forms which would take approximately 15 hours of work by a Legal Services Senior Analyst.

Legal Services Senior Analyst. Beginning July 1, 2023 through June 30, 2024, AOC would require salary, benefits, and associated standard costs for 0.01 FTE to update required court forms.

AOC STAFF IMPACTS INCLUDE STANDARD COSTS

Explanation of standard costs by object:

183,504.00

Form FN (Rev 1/00)

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Request # 163-1

Bill # 5536 S SB

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 31.89% of salaries.

Goods and Services are the agency average of \$3,800 per direct program FTE.

Travel is the agency average of \$2,500 per direct program FTE.

One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE. Ongoing Equipment is the agency average of \$1,600 per direct program FTE.

Agency Indirect is calculated at a rate of 24.73% of direct program salaries and benefits.

SUPERIOR COURT

No Fiscal Impact

Where the bill changes the seriousness of certain drug offenses from a felony to a misdemeanor, this judicial impact note assumes fewer cases will remain in superior court and be heard in district or municipal court. However, there will not be a cost savings to superior court as existing judges and staff would redirect their efforts to provide adequate time and attention to other cases before the court and to reducing caseload backlogs.

COURTS OF LIMITED JURISDICTION

Because the bill changes the seriousness of certain drug offenses from a felony to a misdemeanor and offers the option of pretrial diversion programs, this judicial impact note assumes three fiscal impacts to the courts of limited jurisdiction: the cost of additional cases, the cost of additional hearings per case, and the cost of pretrial diversion programs.

ADDITIONAL CASES

12,000 additional cases would be heard in district or municipal court each year – approximately 58 percent of them in district court and 42 percent of them in municipal court. This would equal an estimated annual court cost of \$1,341,000.

Counties annual cost = \$642,000

Cities annual cost = \$699,000

ADDITIONAL HEARINGS PER CASE

These additional cases would also require an estimated 3 additional hearings as the person facing charges considers diversion. The hearings are estimated to take 15 minutes each. For all 12,000 cases, this would add judicial officer time and associated court costs with an overall estimated annual cost of \$4,375,000.

Counties annual cost = \$2,450,000

Cities annual cost = \$1,925,000

PRETRIAL DIVERSION PROGRAM TO THERAPEUTIC COURTS

Pretrial diversion can take many forms in different jurisdictions. For the purposes of this judicial impact note, the cost assumption is based on diversion to therapeutic courts.

Judges assume 6,000 cases (50 percent of total cases) will result in diversion. Based on caseloads in five King County therapeutic courts, the assumption is that each therapeutic court would have 120 cases per year. And, an average cost of therapeutic courts (\$340,000) based on the courts of limited jurisdiction participating in AOC’s therapeutic court grant program in the 2021-23 biennium. This is likely a low estimate of the actual costs of therapeutic courts.

The costs of the pretrial diversion program would be:

6,000 cases divided by 120 cases per therapeutic court = 50 therapeutic courts statewide multiplied by \$340,000 per court = \$17,000,000 per year

Counties annual cost = \$9,917,000

Cities annual cost = \$7,083,000

Part III: Expenditure Detail

183,504.00

Form FN (Rev 1/00)

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

<i>State</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Wages	1,100		1,100		
Employee Benefits	400		400		
Professional Service Contracts					
Goods and Other Services					
Travel					
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements	400		400		
Total \$	1,900		1,900		

III. B - Expenditure By Object or Purpose (County)

<i>County</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other	13,009,000	13,009,000	26,018,000	26,018,000	26,018,000
Total \$	13,009,000	13,009,000	26,018,000	26,018,000	26,018,000

III. C - Expenditure By Object or Purpose (City)

<i>City</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other	9,707,000	9,707,000	19,414,000	19,414,000	19,414,000
Total \$	9,707,000	9,707,000	19,414,000	19,414,000	19,414,000

III. D - FTE Detail

<i>Job Classification</i>	<i>Salary</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Senior Analyst	114,400	0.0		0.0		
Total FTEs		0.0		0.0		0.0

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B1 - Expenditures by Object Or Purpose (State)

NONE

183,504.00

Form FN (Rev 1/00)

IV. B2 - Expenditures by Object Or Purpose (County)

NONE

IV. B3 - Expenditures by Object Or Purpose (City)

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

None

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 056-Office of Public Defense
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 02/14/2023
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 02/14/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/14/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

SSB 5536 addresses penalties for knowing possession of a controlled substance, and provides for treatment.

* Section 15 of the substitute bill authorizes the court, in its discretion, to appoint counsel in family law parenting plan or child custody proceedings where the court determines the parent, guardian, or custodian is affected by substance use disorders, mental health, or behavioral health concerns such that they are unable to represent their own interests, or their parental rights may be restricted,. The bill does not specify an entity to be responsible for providing counsel in these matters. Providing counsel for Title 26 family law matters is not among OPD's enumerated statutory duties, therefore OPD assumes that Section 15 would not create a fiscal impact to OPD.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 02/14/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/14/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/14/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

The Attorney General's Office (AGO), Agriculture & Health Division (AHD) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Commerce (Commerce). The change to the Growth Management Act (GMA) in Section 11 is not expected to affect Commerce Growth Management Services. The new program created in Section 13 for funding construction costs of Substance Use Disorder (SUD) treatment facilities is not expected to generate more than minimal legal work. Additionally, Commerce was assigned this fiscal note request for its role in estimating the impact of bills on local governments. This will not generate any legal work. Therefore, costs are not included in this request.

The AGO AHD has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Health (DOH). The enactment of this bill will not impact the provision of legal services to DOH. This bill would modify some requirements for opioid treatment program licensure (Section 12). DOH would be required to include stakeholders in rulemaking concerning health engagement hubs (Section 23). Additionally, DOH would be required to implement a statewide tool to map and direct individuals with behavioral health disorders to treatment and recovery support services locations. AHD assumes new legal services are nominal. Therefore, costs are not included in this request.

The AGO Revenue and Finance Division (REV) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Revenue (DOR). Section 17 creates an exemption for property used by a nonprofit organization in maintaining an approved and registered recovery residence. REV assumes this bill is unlikely to generate any requests for advice or need for litigations since the exemption will be administered by county assessors. Therefore, costs are not included in this request.

The AGO Corrections Division (COR) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Corrections (DOC). This bill increases the penalty for drug possession (of certain substances) to gross misdemeanor, and creates a pretrial diversion program for individuals charged with simple possession. Individuals convicted of gross misdemeanors serve any confinement time in local jails, not in DOC prisons. Additionally, diversion programs are administered at the local level. Although DOC does supervise certain individuals for misdemeanor convictions, any increase in such supervision is unlikely to increase DOR's need for legal services. Therefore, costs are not included in this request.

The AGO Social & Health Services – Olympia Division (SHO) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Health Care Authority (HCA). While this bill directs HCA to perform a study and work on several programs, SHO already advises the portion of HCA that handles the Substance Use Disorder (SUD) legal issues. This bill should not result in additional expansion of SUD program. SHO anticipates that the same program staff will continue providing advise and working on these issues. Therefore, costs are not included in this request.

The AGO Children, Youth and Families (CYF) Division has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Children, Youth, and Families (DCYF). Section 15 provides that parents, guardians, and legal custodians may have a right to appointed counsel in parenting plan and other child custody cases if the parent, guardian, or legal custodian is affected by SUD, a mental health disorder, or a behavioral health concern. This may result in a small increase in parents with attorneys seeking to modify guardianships, or other custody arrangements entered following a dependency case. However, CYF assumes legal services assistance would be minimal. Additionally, CYF anticipates a minimal legal assistance required by Section 19 for DCYF work with HCA to develop a training for parents of children with SUD. Section 20 requires DCYF to make "opioid reversal medication" available to case workers and other employees who may come into contact with individuals who might experience an

overdose. CYF assumes new legal services are nominal. Therefore, costs are not included in this request.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 101-Caseload Forecast Council
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/15/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/15/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/15/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

See attached.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

See attached.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

SSB 5536
CONCERNING POSSESSION OF CONTROLLED
AND COUNTERFEIT SUBSTANCES AND
LEGEND DRUGS
101 – Caseload Forecast Council
February 10, 2023

SUMMARY

A brief description of what the measure does that has fiscal impact.

- Section 1 States legislative intent.
- Section 2 Amends RCW 69.50.4011 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Counterfeit Substance. Additionally, establishes the offense as a gross misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Requires the court to advise defendant of the pretrial diversion program in Section 9(1) of the act, upon arraignment.
- Section 3 Amends RCW 69.50.4013 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Controlled Substance. Additionally, establishes the offense as a gross misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Requires the court to advise defendant of the pretrial diversion program in Section 9(1) of the act, upon arraignment.
- Section 4 Amends RCW 69.50.4014 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of 40 grams or less of Cannabis. Additionally, states the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Requires the court to advise defendant of the pretrial diversion program in Section 9(1) of the act, upon arraignment.
- Section 5 Amends RCW 69.41.030 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” for possession in the offense of Sell, Deliver, or Possess any Legend Drug. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Requires the court to advise defendant of the pretrial diversion program in Section 9(1) of the act, upon arraignment.
- Section 6 Amends RCW 69.50.509 to add the term “knowingly” for probable cause that a controlled substance is being possessed.

- Section 7 Amends RCW 69.50.4121 by contracting the definition of a class I civil infraction regarding drug paraphernalia. Additionally removes testing and analyzing from the definition of drug paraphernalia. Also adds public health supplies, smoking equipment, and drug testing equipment from prohibited distribution.
- Section 8 Adds a new section to chapter 69.50 RCW stating the laws concerning drug paraphernalia are preempted by the state of Washington and cities, towns, and counties or other municipalities may only enact laws and ordinances that are specifically authorized by state law. Requires local ordinances to have the same penalty as provided by state law.
- Section 9 Adds a new section to chapter 69.50 RCW requiring the court to advise the defendant and his/her attorney of the pretrial diversion program for certain drug offenses. Additionally describes the pretrial diversion program and states if the defendant successfully completes pretrial diversion, the criminal possession charge or charges must be dismissed.
- Section 10 Amends RCW 9.96.060, adding a new subsection that states for individuals convicted of certain drug offenses who subsequently complete an approved substance use disorder treatment program, they may apply to the court for vacation of the conviction(s). Upon verification of successful completion, the court must vacate.
- Section 14 Repeals RCW 10.31.115 (Drug Possession Referral to assessment and services) and 2021 c 311 s 13.
- Section 26 States the legislative intent to increase investments in the 2023-2025 biennium substantially over baseline levels established in the 2021-2023 operating and capital budgets to increase the provision of evidence-based prearrest and prefiling diversion programs in all regions of the state. States the appropriation amounts proved to the state Health Care Authority and the conditions and limitations of the appropriated amounts.
- Section 27 Adds a new section to chapter 71.24 RCW that requires the Authority to convene a workgroup to recommend changes to systems, policies, and processes related to intake, screening, and assessment for substance use disorder services with recommendations due by December 1, 2024.
- Section 28 Adds a new section to chapter 71.24 RCW establishing the Safe-Supply Work Group.
- Section 29 Amends 2021 c 311 s 29 to read Sections 8-10 and 12 of this act expire on the effective date of this section.

EXPENDITURES

Assumptions

None.

Impact on the Caseload Forecast Council.

None.

Background Information

In February 2021, the Washington State Supreme Court ruled in *State v. Blake* that the state's felony drug possession statute was unconstitutional. Prior to the Blake decision, Drug Possession

was a felony offense ranked at Seriousness Level I on the Adult Felony Drug Grid and a Category C on the Juvenile Offender Sentencing Grid.

As a result of the court decision in February 2021, simple drug possession became non-criminal.

The 2021 Legislature addressed the issue and made changes to the statutes ruled unconstitutional by adding the term “knowingly” – effective as of May 13, 2021 (ESB 5476). The bill also lowered the prior felony possession offenses to misdemeanor offenses and encouraged prosecutors to divert cases for assessment, treatment, or other services. The possession offenses were removed from the Adult felony Drug Grid, and lowered to a Category E on the Juvenile Offender Grid.

ESB 5476 contained a sunset clause, making the changes expire as of July 1, 2023, at which time without any changes, simple possession would once again be unconstitutional and no longer a crime.

This bill reintroduces the term “knowingly” to the drug possession statutes and classifies simple possession of a controlled or counterfeit substance as a gross misdemeanor. Additionally reintroduces the term “knowingly” to the sale, possession or delivery of a legend drug. The sale, delivery, or possession with intent to sell or deliver a legend drug remains a Class B felony. Knowingly possessing a legend drug remains a misdemeanor offense.

Impact on prison and jail beds and community corrections population:

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, since misdemeanor offenses are punishable by a term of confinement of 0-90 days in jail and gross misdemeanor offenses are punishable by a term of confinement of 0-364 days in jail, any impact of the change from current sentencing would manifest itself as a potential increased need for jail beds only.

However, the bill also adds that the prosecutor is encouraged to divert such cases to assessment, treatment or other services. Law enforcement is encouraged to offer a referral to assessment and services. Upon arraignment for a violation for possession offenses, the court is required to advise the defendant of the pretrial diversion program established in the bill. For individuals who completes pretrial diversion, the criminal possession charge or charges must be dismissed. It is unknown if confinement time will increase or decrease from current practice as individuals as the court may terminate pretrial diversion if the defendant is not meaningfully engaging in the recommended treatment or services or is convicted of an intervening crime. Individuals who successfully complete a substance use disorder treatment program shall have their offense vacated by the court.

The provisions of the bill have no impact to DOC supervision caseload.

Impact on Juvenile Rehabilitation and local beds

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) By adding the term “knowingly” to possession offenses, the offenses conform with the issue raised in the Blake decision, and will remain criminal offenses as of July 1, 2023. However, the juvenile offense grid was not amended by the bill, and as such, Possession of a Controlled Substance will be a Category C offense as of July 1, 2023.

The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, the offense of Possession of a Controlled Substance would be punishable by a standard range term of between Local Sanctions (0-30 days in local juvenile detention) and 52 weeks (assumed as maximum punishment for a gross misdemeanor is 364 days) in Juvenile Rehabilitation (depending on the number of prior adjudications) for juveniles adjudicated for the offense. Therefore, incidences of this offense would likely impact both local juvenile detention and Juvenile Rehabilitation beds.

As described above under Prison and Jail Bed Impacts, juveniles may also participate in pretrial diversion. It is unknown if confinement time will increase or decrease from current practice as individuals may be terminated from the diversion program or if successful, charges may be dismissed.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 103-Department of Commerce
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.0	0.1	0.0	0.0
Account					
General Fund-State 001-1	36,956	0	36,956	0	0
Total \$	36,956	0	36,956	0	0

Estimated Capital Budget Impact:

Non-zero but indeterminate cost and/or savings. Please see discussion.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 02/14/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 02/14/2023
OFM Review: Myra Baldini	Phone: (360) 688-8208	Date: 02/15/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Differences between the substitute bill and the original bill:

- Section 11 adds opioid treatment programs in addition to substance use disorder treatment facilities to the list of essential facilities that require a local siting process.
- Section 11 also adds a definition for harm reduction programs.
- The scope of Section 13 and a new Department of Commerce (department) capital program for substance use disorder facilities is unchanged.

The substitute would not create additional fiscal impacts to the department.

Summary of the substitute bill:

Section 11 amends RCW 36.70A.200 to modify the essential facilities that cities and counties planning under the Growth Management Act would add into their processes for identifying and siting such facilities within their comprehensive plans. Facilities include opioid treatment facilities, substance use disorder facilities, and both mobile and fixed-site medication units, recovery residences, and harm reduction programs except for safe injection sites.

Section 13 adds a new section to RCW 43.330 that requires the department to form and operate a program for the capital construction needs of substance use disorder treatment programs. Awards must be made to unserved areas of the state and specifically Eastern and Central Washington.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Section 11: Growth Management Services essential facilities guidance.

Assumptions:

- The department assumes minor updates to existing essential facilities guidance and rulemaking to update WAC 396-550.
- Guidance includes outreach and engagement in coordination with the staff of the grant program developed by the department in Section 13 with emphasis on siting issues and opportunities at the local level.

0.20 FTE Commerce Specialist 3 (418 hours) in FY24 to provide essential facility guidance, technical assistance to cities and counties, and to update department rules for essential facilities. Staff would be responsible for coordinating with opioid treatment grant program staff during outreach and engagement.

Salaries and Benefits:

FY24: \$22,211

Goods and Services:

FY24: \$3,433

Travel:

Outreach and engagement to Eastern and Central Washington for 10 days, all of which are likely overnight trips.

FY24: \$4,005

Intra-agency Reimbursements:

FY24: \$7,307

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney General costs, central services charges and agency administration. Agency administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

=====
 Total Costs:
 FY24: \$36,956

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	36,956	0	36,956	0	0
Total \$			36,956	0	36,956	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2		0.1		
A-Salaries and Wages	16,411		16,411		
B-Employee Benefits	5,800		5,800		
C-Professional Service Contracts					
E-Goods and Other Services	3,433		3,433		
G-Travel	4,005		4,005		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	7,307		7,307		
9-					
Total \$	36,956	0	36,956	0	0

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Services - Indirect	111,168	0.0		0.0		
Commerce Specialist 3	82,056	0.2		0.1		
Total FTEs		0.2		0.1		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

IV. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

Non-zero but indeterminate cost and/or savings. Please see discussion.

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Section 13: Development and implementation of a substance use disorder treatment capital program.

Assumptions:

- The proposed legislation creates a new substance use disorder treatment capital grant program that is subject to appropriation and does not identify a funding source.
- The department assumes 3% of a potential appropriation for administrative costs, but without a clearly identified funding level, the costs outlined for the department to implement the proposed legislation are illustrative only.
- The department assumes a process to develop the grant program criteria, including eligibility, funding prioritization, application question development, and scoring process would be in consultation with state partners from the Health Care Authority (HCA) and the Department of Health (DOH), Health Systems Quality Assurance Team. The department would convene virtually for between four and six half-day meetings between July 1, 2023 and December 31, 2023.
- The timeline to form and develop the program would take approximately eight months, with hiring to occur in alignment with budget authority on July 1, 2023. The department assumes the program would be operational by March 1, 2023 and would begin its first grant cycle thereafter to generate a prioritized project list by September 1, 2024.
- The department would leverage existing Behavioral Health Facilities staff to develop the program required in Section 13.
- Application review and scoring would be in consultation with the HCA and DOH and require approximately 40 hours of staff time depending on the number of applications received. It could be higher if there is a significant volume of applications, such as more than 10.
- The department assumes outreach and engagement with existing providers to assess interest and opportunity to retrofit or build new substance use disorder treatment facilities in Central and/or Eastern Washington.
- The level of appropriation required for implementing Section 13 and to form a new substance use disorder treatment capital program in the department is unknown. The level of demand for state funding to support providers to expand substance use disorder treatment services in Central and Eastern Washington and the number of grants awarded are also

unknown.

1.0 FTE Commerce Specialist 3 (2,088 hours) in FY24-FY29, for general program administration and consultation with providers and interagency partners. This position will be responsible for ongoing program operations, including contract management and coordinating outreach to providers and communities. Compliance may include site visits and corresponding compliance reports. Staff will manage capital contracts, validate invoices, monitor contract implementation and commitment period, and develop project communications.

1.0 FTE Commerce Specialist 5 (2,088 hours) in FY24-FY29, to provide staff management, including assigning and negotiating contracts and project support services. Staff will also provide rule development oversight, as required. Staff will also support application development, outreach, and application scoring and prioritization. Staff will present advanced technical business information to higher education institutions and coordinate with key stakeholders. Staff will present advanced technical business information to eligible providers. Staff will oversee program development, including application, scoring and other relevant process with interagency partners.

0.20 FTE WMS2 (418 hours) in FY24-29, to provide leadership, oversight, supervision, rules coordination and final decision making over all grantmaking activities of the program. Staff will provide expert leadership, oversight, rules coordination and decision making over all capital elements of the program.

0.10 WMS3 (209 hours) in FY24-29, to coordinate project delivery in compliance with established rules and laws, provide guidance on new capital grant solicitations, contract negotiation, as needed, and oversight of any consultant agreements.

0.10 Administrative Assistant 3 (209 Hours) in FY24-FY29, to review contract documents, facilitate accounting and project financial data management in the Contracts Management System, and records retention. Composes program correspondence regarding grantee projects, such as requests for documentation and responses to requests for information. Provides project support services and facilitates planning for for grantee meetings.

Salaries and Benefits:

FY24: \$294,914

FY25-FY29: \$304,862 each fiscal year

Goods and Services:

An annual ZoomGrants license at \$2,458 and 50 hours of Assistant Attorney General (AAG) consultation at \$210 per hour in FY24.

FY24: \$55,899

FY25-FY29: \$45,416 each fiscal year

Travel:

Outreach and engagement to Eastern and Central Washington for 10 days, all of which are likely overnight trips.

FY24-FY29: \$4,005 each fiscal year

Equipment:

Standard workstations for new team members and a replacement computer on the agency's five-year lifecycle replacement schedule.

FY24: \$10,000

FY28: \$4,800

Intra-agency Reimbursements:

FY24: \$97,027

FY25-FY29: \$100,300 each fiscal year

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney General costs, central services charges and agency administration. Agency administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

=====

Total costs:

FY24: \$462,685

FY25-FY27: \$454,583 each fiscal year

FY28: \$459,383

FY29: \$454,583

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

The department would update rules under WAC 396-550 for essential facilities.

Department of Revenue Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.1	1.3	3.2	1.3	1.3
Account					
GF-STATE-State 001-1	594,200	139,500	733,700	279,000	279,000
Total \$	594,200	139,500	733,700	279,000	279,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Kari Kenall	Phone: (360) 534-1508	Date: 02/17/2023
Agency Approval: Marianne McIntosh	Phone: (360) 534-1505	Date: 02/17/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/17/2023

Request # 5536-1-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

This fiscal note only addresses section 17 that impacts the Department of Revenue (department) and the state and local property tax levies.

CURRENT LAW:

The law exempts nonprofit organizations owning or leasing real and personal property used in providing emergency or transitional housing to people who are homeless and low-income or victims of domestic violence. The law limits the exemption to organizations with a limited length-of-stay policy. For emergency housing and transitional housing that is 60 days or two-years respectively.

PROPOSED LAW:

This bill expands the property tax exemption for nonprofit organizations owning or leasing real and personal property used in providing emergency or transitional housing to people who are homeless and low-income or victims of domestic violence to include approved registered recovery residences. An approved registered recovery residence does not require a limited length-of-stay policy. In addition, the home must:

- Register as a recovery residence with the Washington State Health Care Authority.
- Involve peers in the governance of the recovery residence.
- Integrate recovery support into the daily activities.
- Maintain an environment that is home-like, promotes healthy recovery, and is free from alcohol and illicit drugs.
- Not charge more for the housing than the actual cost of operating and maintaining the housing.
- Ensure the property tax exemption benefits the nonprofit organization when the nonprofit organization is leasing the property.

This bill limits the exemption to taxes levied for collection in calendar years 2024 through 2033.

EFFECTIVE DATE:

This bill takes effect beginning with property taxes due for calendar year 2024.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS

- There are approximately 450 recovery residences.
- Total estimated real property value of recovery residences is \$242,500,000.
- Total estimated personal property value of recovery residences is \$830,000.
- Approximately 75% of qualified residences would apply and receive property tax exemption in calendar year 2024 with an additional 4% each calendar year after accounting for added participation of existing residences and new residences established.
- Analysis of local property tax levies show that with a new property tax exemption, 90% of local taxes would shift to non-exempt property owners and 10% of local taxes would decrease revenues for local taxing districts.
- Based on five years of state property tax collections, 52.35% of state property tax collections occur in April and 47.65% occur in October. When converting from calendar year to fiscal year, this estimate assumes revenues shifts and losses follow this trend.

DATA SOURCES

Request # 5536-1-1

- Washington State Health Care Authority, Registered recovery residences
- Washington Center for Real Estate Research, University of Washington, quarter 3, 2022, median resale price by county
- Department of Revenue, Property tax division data
- Department of Revenue, State School Levy forecast model, November 2022

REVENUE ESTIMATES

The Economic and Revenue Forecast Council predicts the state property tax levy remains below the \$3.60 limit throughout the 2027-29 biennium. This expanded exemption results in a shift and no loss to the state levy.

PROPERTY TAX SHIFTS:

This legislation results in a state levy shift to other taxpayers of an estimated \$198,000 for fiscal year 2024 and \$390,000 in fiscal year 2025, the first full fiscal year.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000): None

Local Government, if applicable (cash basis, \$000):

- FY 2024 - (\$ 32)
- FY 2025 - (\$ 65)
- FY 2026 - (\$ 71)
- FY 2027 - (\$ 77)
- FY 2028 - (\$ 84)
- FY 2029 - (\$ 91)

DETAIL OF REVENUE IMPACT FOR PROPERTY TAX BILLS, Calendar Year Basis

State Government, Impact on Revenues (\$000): None

State Government, (\$000), Shift of Tax Burden:

- CY 2024 - \$ 380
- CY 2025 - \$ 400
- CY 2026 - \$ 430
- CY 2027 - \$ 450
- CY 2028 - \$ 480
- CY 2029 - \$ 510

Local Government, Impact on Revenues (\$000) :

- CY 2024 - (\$ 60)
- CY 2025 - (\$ 70)
- CY 2026 - (\$ 70)
- CY 2027 - (\$ 80)
- CY 2028 - (\$ 90)
- CY 2029 - (\$ 90)

Local Government, (\$000), Shift of Tax Burden:

CY 2024 -	\$ 1,070
CY 2025 -	\$ 1,170
CY 2026 -	\$ 1,280
CY 2027 -	\$ 1,400
CY 2028 -	\$ 1,540
CY 2029 -	\$ 1,680

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

FIRST YEAR COSTS:

The department will incur total costs of \$594,200 in fiscal year 2024. These costs include:

- Labor Costs - Time and effort equate to 5.07 FTEs.
- Create a special notice and update forms and publications.
- Receive, process, and approve or deny applications for exemption from nonprofit organizations maintaining recovery residences.
- Amend one administrative rule.

SECOND YEAR COSTS:

The department will incur total costs of \$139,500 in fiscal year 2025. These costs include:

- Labor Costs - Time and effort equate to 1.3 FTEs.
- Receive, process, and approve or deny applications or renewals for exemption from nonprofit organizations maintaining recovery residences.

ONGOING COSTS:

Ongoing costs for the 2025-27 biennium equal \$279,000 and include similar activities described in the second-year costs. Time and effort equate to 1.3 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.1	1.3	3.2	1.3	1.3
A-Salaries and Wages	351,700	88,500	440,200	177,000	177,000
B-Employee Benefits	116,100	29,200	145,300	58,400	58,400
E-Goods and Other Services	76,200	13,900	90,100	27,800	27,800
G-Travel	15,000	3,900	18,900	7,800	7,800
J-Capital Outlays	35,200	4,000	39,200	8,000	8,000
Total \$	\$594,200	\$139,500	\$733,700	\$279,000	\$279,000

III. B - Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EMS BAND 4	126,619	0.0		0.0		
MGMT ANALYST4	73,260	0.0		0.0		
PROPERTY AND ACQUISITION SJ	68,076	4.0	1.3	2.7	1.3	1.3
PROPERTY AND ACQUISITION SJ	77,028	1.0		0.5		
TAX POLICY SP 2	75,120	0.0		0.0		
TAX POLICY SP 3	85,020	0.0		0.0		
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 3	107,685	0.0		0.0		
Total FTEs		5.1	1.3	3.2	1.3	1.3

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Should this legislation become law, the department will use the expedited rulemaking process to amend WAC 458-16-320, titled: "Emergency or transitional housing." Persons affected by this rulemaking would include nonprofits that provide housing for vulnerable populations.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 225-Washington State Patrol
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Michael Middleton	Phone: (360) 596-4072	Date: 02/14/2023
Agency Approval: Mario Buono	Phone: (360) 596-4046	Date: 02/14/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 02/15/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

There is an indeterminate fiscal impact to the Washington State Patrol (WSP).

Section 2 makes “knowingly” possessing a counterfeit substance a gross misdemeanor rather than its previous standing as a Class B or C felony. Additionally, in lieu of a felony booking and referral to prosecution, diverting the case to assessment, treatment, and service programs such as referenced under RCWs 10.31.110, 36.28A.450, 71.24.589, and 71.24.115 is encouraged.

Section 3 adds the word “knowingly” to possessing a controlled substance, changes the offense from a class C felony to a gross misdemeanor, and further encourages similar diversion recommendations referenced in Section 2.

Sections 4 and 5 are amended to change knowingly possessing 40g or less of cannabis and any legend drugs a gross misdemeanor and encourages similar diversion recommendation referenced in Section 2.

Section 6 adds “knowingly” before “possessed” for controlled substances.

Section 7 removes gifting of drug paraphernalia as a class I civil infraction and removes testing or analyzing as functional use of equipment that would constitute a definition of drug paraphernalia. It also expands the exception of supplies allowed to be distributed.

New Section 8 has the state occupying and preempting the field of drug paraphernalia regulation limiting local jurisdictions to the same penalties for violation of the law.

Section 10 is amended to include knowingly possessing of controlled substances under Section 6 as well as evidence of post-conviction drug treatment program participation amongst the circumstances that could lead to a vacation of an earlier conviction.

Section 14 repeals RCW 10.31.115

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

It is unknown what impact we could expect to the WSP Crime Lab Division as a result of the changes in definition for possession of a counterfeit substance, controlled substance, and legend drug. It is possible that we could see a significant increase in requests for related evidence analysis, but due to the emphasis of the proposed legislation on pretrial intervention, it is possible that any increase will be minimal. If we find that the impact is significant, we will seek the funding necessary to address the increased workload through the legislative processes.

We anticipate the impacts of needed training on the changes to existing law and introduction of new requirements will be

minimal and can be absorbed under our current funding. Future conviction vacate orders are expected to be minimal and will be addressed by our current staffing and resourcing.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 227-Criminal Justice Training Commission
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Brian Elliott	Phone: 206-835-7337	Date: 02/15/2023
Agency Approval: Brian Elliott	Phone: 206-835-7337	Date: 02/15/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/15/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

This bill has no fiscal impact on the Washington State Criminal Justice Training Commission.

There is no fiscal impact to the Washington Association of Sheriffs and Police Chiefs to be a member of the safe supply workgroup described in section 28 of this bill.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

This bill has no cash receipt impact.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

This bill has no expenditure impact.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 303-Department of Health
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
General Fund-Private/Local 001-7		8,000	8,000	19,000	24,000
Total \$		8,000	8,000	19,000	24,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	2.2	1.2	0.8	0.7
Account					
General Fund-State 001-1	19,000	310,000	329,000	197,000	192,000
General Fund-Private/Local 001-7	0	15,000	15,000	36,000	14,000
Total \$	19,000	325,000	344,000	233,000	206,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 02/21/2023
Agency Approval: Stacy May	Phone: (360) 236-4532	Date: 02/21/2023
OFM Review: Robyn Williams	Phone: (360) 704-0525	Date: 02/21/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

This fiscal note has changed from the previous fiscal note on 5536 SB. This substitute bill removes the section directing the Department of Health (department) to adopt rules allowing a substance use disorder treatment program to establish off-site medication units. It adds a new section to 71.24 RCW (Community Behavioral Health Services Act) creating health engagement hubs and directs the department to create a statewide tool to map and direct individuals with behavioral health disorders to treatment and recovery support services.

Section 12: Amends the definition of opioid treatment program in RCW 71.24.590 (Opioid treatment—Program Licensing or Certification by Department, Department Duties—Use of Medications by Program—Definition) requiring the program to be a mobile or fixed-site medication unit.

Section 23: Adds a new chapter to 71.24 RCW (Community Behavioral Health Services Act) creating and defining health engagement hubs and directs the Department of Health (department) to include certain stakeholders in the rulemaking process.

Section 25: Adds a new chapter to 71.24 RCW (Community Behavioral Health Services Act) directing the department to provide a statewide tool to map and direct individuals to treatment and recovery support locations.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

Current law, RCW 43.70.250 (License fees for professions, occupations, and businesses.), requires a licensing program be fully self-supporting and sufficient revenue be collected through fees to fund expenditures.

Because many Opioid Treatment Programs (OTP) likely perform some of the work described in this bill already, the department assumes many existing OTPs will apply to be licensed health engagement hubs. Currently, there are approximately 35 OTPs operating. Additionally, the bill requires the Health Care Authority make sufficient funding available to ensure there is at least one health engagement hub available per 200,000 residents in Washington state. According to the 2020 Census, Washington state has a population of 7.7 million, requiring a total of 39 health engagement hubs. The department estimates 50% of the 39 health engagement hubs called for will apply the first year of licensure and that the number of hubs will grow by 15% in each of the following years.

For the purpose of this fiscal note, a one-year licensing fee is estimated between \$370 and \$420 to cover the regulation of health engagement hubs. During the rulemaking process, a fee study will be prepared with proposed fees and provided for stakeholder input. The department will monitor the program fund balance and adjust fees over a six (6) year period to ensure that fees are sufficient to cover all program expenditures. Revenue collection will start January 1, 2025, and will be deposited to the private local fund.

Estimated Revenue for Health Engagement Hubs:

FY 2025: \$8,000 (20 applications)

FY 2026: \$9,000 (3 applications, 20 renewals)

FY 2027: \$10,000 (3 applications, 23 renewals)

FY 2028: \$11,000 (3 applications, 26 renewals)

Note: This estimate assumes the department will receive general fund-state (GF-S) in FY 2024 and FY 2025 to implement this bill. If GF-S is not appropriated for implementation, then fees may range between \$705 and \$755 per license in order to

recover the implementation costs over a six-year horizon.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Section 12(7)(b): The department views the amended definition of an opioid treatment program requiring the program to be a mobile or fixed-site medication unit as a technical error in the bill as it would eliminate currently licensed opioid treatment programs by requiring them to be a mobile or fixed-site medication unit. Mobile and fixed-site medication units would not be able to meet state or federal opioid treatment program regulations as they are required to be an extension of a brick-and-mortar opioid treatment program. For the purposes of this fiscal note the department will not include costs requiring all opioid treatment programs to be a mobile or fixed-site medication unit.

Rulemaking

Section 23: The department will develop and adopt rules to allow a substance use disorder treatment program to receive a certification as a health engagement hub. The department anticipates utilizing a team of subject matter experts to implement this bill. This team will consist of the program manager and a community engagement specialist to identify underreached communities and engage them in the rulemaking process. This process will include two meetings with interested parties as well as one formal rules hearing, all held virtually, and will take 12 months to complete. The department anticipates providing the rules hearing announcement and materials in both English and Spanish and providing ASL and Spanish interpretation services at the rules hearing.

Costs include staff, associated expenses (including goods and services, travel, intra-agency, and indirect charges), and Office of Attorney General support in the amount of \$3,000.

FY 2024 costs will be 0.1 FTE and \$19,000 (GF-S).

FY 2025 costs will be 0.1 FTE and \$22,000 (GF-S).

Health Technology Solutions

Section 23: Configuration in department's Healthcare Enforcement and Licensing Modernization System will require 33 hours from the integration vendor at a rate of \$262.50 per hour. Work will include the initial vendor configuration and agency staff time for ongoing maintenance of new workflows and user defined license data fields for health engagement hubs.

FY 2025 costs will be 0.1 FTE and \$20,000 (GF-S).

FY 2026 and ongoing, costs will be \$3,000 (GF-L) each year.

Inspection

Section 23: The department will conduct inspections and clinical record reviews based on the three-year survey cycle for each behavioral health agency for compliance with the minimum operating and patient care standards. The department plans to divide the health engagement hub inspections evenly across the three-year inspection cycle. The average initial inspection is expected to take 3 hours per health engagement hub and 10 hours for each clinical record review.

FY 2025, FY 2026, and FY 2027 costs will be 0.1 FTE and \$15,000 (GF-L).

FY 2028 and ongoing, costs will be \$4,000 (GF-L).

Health Technology Solutions - Behavioral Health Support Map

Section 25: The department will provide a statewide tool to map and direct individuals to treatment and recovery support locations. The HELMS project will be used as one of the data streams for this tool and will be nearing completion during FY 2024. This project must complete a stabilization period before a new project dependent on data from this system could be initiated. Work is expected to begin on the statewide treatment and recovery support map in FY 2025 and is expected to last less than 4 months. The department will utilize its GeoHub platform and a team of IT professionals to facilitate this project. Ongoing maintenance and operations are expected to be 30% of implementation costs.

FY 2025 costs will be 1.8 FTE and \$259,000 (GF-S).

FY 2026 and ongoing, costs will be 0.6 FTE and \$83,000 (GF-S).

Office of the Assistant Secretary – Behavioral Health Support Map

Section 25: The department will contract with a vendor to provide a statewide tool to map and direct individuals to treatment and recovery support locations. The department will need to coordinate data sharing agreements with the Health Care Authority and the vendor and provide ongoing data cleaning for information received through those data sharing agreements.

FY 2025 costs will be 0.1 FTE and \$9,000 (GF-S).

FY 2026 costs will be 0.1 FTE and \$18,000 (GF-S).

FY 2027 and ongoing, costs will be 0.1 FTE and \$13,000 (GF-S).

Total costs to implement this bill are:

FY 2024 – 0.1 FTE and \$19,000 (GF-S)

FY 2025 – 2.2 FTE and \$15,000 (GF-L), and \$310,000 (GF-S)

FY 2026 – 0.8 FTE and \$18,000 (GF-L), and \$101,000 (GF-S)

FY 2027 – 0.8 FTE and \$18,000 (GF-L), and \$96,000 (GF-S)

FY 2028 and ongoing – 0.7 FTE and \$7,000 (GF-L), and \$96,000 (GF-S)

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	19,000	310,000	329,000	197,000	192,000
001-7	General Fund	Private/Local	0	15,000	15,000	36,000	14,000
Total \$			19,000	325,000	344,000	233,000	206,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	2.2	1.2	0.8	0.7
A-Salaries and Wages	11,000	216,000	227,000	161,000	140,000
B-Employee Benefits	3,000	71,000	74,000	53,000	48,000
C-Professional Service Contracts		10,000	10,000		
E-Goods and Other Services	4,000	17,000	21,000	9,000	10,000
T-Intra-Agency Reimbursements	1,000	11,000	12,000	10,000	8,000
Total \$	19,000	325,000	344,000	233,000	206,000

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EPIDEMIOLOGIST 2 (NON-MEDICAL)	98,592		0.1	0.1	0.1	0.1
Fiscal Analyst 2	53,000		0.3	0.2		
HEALTH SERVICES CONSULTANT 4	82,896		0.1	0.1	0.1	
Health Svcs Conslt 1	53,000		0.2	0.1	0.1	0.1
IT APPLICATION DEVELOPMENT SENIOR/SPECIALIST	115,824		0.3	0.2	0.1	0.1
IT BUSINESS ANALYST - SENIOR/SPECIALIST	110,292		0.3	0.2	0.1	0.1
IT DATA MANAGEMENT - SENIOR/SPECIALIST	110,292		0.2	0.1	0.1	0.1
IT PROJECT MANAGEMENT - SENIOR/SPECIALIST	115,824		0.3	0.2	0.1	0.1
IT QUALITY ASSURANCE - SENIOR/SPECIALIST	110,292		0.3	0.2	0.1	0.1
NURSING CONSULTATION ADVISOR	147,360	0.1	0.1	0.1		
Total FTEs		0.1	2.2	1.2	0.8	0.7

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Sections 23: The department will adopt rules in 246-341 WAC (Behavioral Health Agency Licensing and Certification Requirements) as necessary to implement the bill.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 307-Department of Children, Youth, and Families
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
Account					
General Fund-State 001-1	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000
Total \$	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Kevin Keogh	Phone: 360-628-2652	Date: 02/16/2023
Agency Approval: Crystal Lester	Phone: 360-628-3960	Date: 02/16/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/16/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Comparison of 5536 SB and 5536 SSB

Sections 9 and 10 change the requirements around participation in substance treatment from “failure of treatment or condition under program” and “completes an approved substance use disorder program” to “meaningful engagement” with a treatment program.

Section 15 has been added, which gives the court the option for providing court appointed counsel to parents involved in custody proceedings who are affected by substance use disorder, mental health disorder, or behavioral health concerns to the degree that the parent cannot represent their own interests.

Section 19 has been added, which requires the Department of Children, Youth, and Families (DCYF) to develop a training for parents of children and transition age youth with substance use disorders (SUD) by June 30, 2024. The section also establishes topic areas that must be covered by the training. It also requires DCYF to make the training developed in subsection 1 of publicly available and promote the training to licensed foster parents.

Section 20 has been added, which requires DCYF to make available opioid reversal medication and appropriate training for use by caseworkers or employees that may come in contact with individuals experiencing overdose.

Section 2 amends the RCW on counterfeit substances to include to include the term “knowingly” for counterfeit substance possession. This language was set to expired on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It establishes this crime as a gross misdemeanor and encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 3 amends the RCW on controlled substances to include to include the term “knowingly” for controlled substances possession. This language was set to expired on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It establishes this crime as a gross misdemeanor and encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 4 amends the RCW on possession of 40 grams or less of marijuana to include to include the term “knowingly”. This language was set to expired on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It also encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 5 amends the RCW on legend drugs to include to include the term “knowingly” for legend drug possession. This language was set to expired on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It also encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 7 amends the RCW on drug paraphernalia to decriminalize “giving” drug paraphernalia to another person.

Section 9 requires the court to inform defendants of pretrial diversion programs for the drug possession crimes being amended in the previous sections of this bill.

Section 10 allows individuals with the drug possession charges amended in this bill to petition the court for vacation of their conviction upon providing proof of meaningful engagement with a substance use disorder treatment program.

Section 14 repeals the RCW that requires law enforcement officers to offer a referral to assessment services for individuals with the drug possession charges amended above. Much of this language is included in the amendments above, but law enforcement officers are encouraged rather than required to offer referrals.

Section 15 gives the court the option for providing court appointed counsel to parents involved in custody proceedings who are affected by substance use disorder, mental health disorder, or behavioral health concerns to the degree that the parent cannot represent their own interests or they may have their parental rights restricted.

Section 19(1) requires Health Care Authority (HCA) to develop a training in coordination with the Department of Children, Youth, and Families (DCYF) for parents of children and transition age youth with substance use disorders (SUD) by June 30, 2024. The section also establishes topic areas that must be covered by the training.

Section 19(2) requires DCYF to make the training developed in subsection 1 of publicly available and promote the training to licensed foster parents.

Section 20 requires DCYF to make available opioid reversal medication and appropriate training for use by caseworkers or employees that may come in contact with individuals experiencing overdose.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Indeterminate fiscal impact.

Sections 2-14: Indeterminate

The amendments to the drug possession RCWs, which effectively maintain drug possession as a prosecutable crime would likely result in an increase in Average Daily Population (ADP). The bill also allows for individuals to complete a substance use disorder treatment program and have their sentences vacated which could result in a reduction in ADP. It is unknown at this time how many youth will be impacted; therefore the caseload forecast and per capita adjustments are not known at this time.

DCYF assumes the impact will result when the ADP caseload changes in the JR residential facilities forecast. The impact would be reflected in the forecasted maintenance level budget step. DCYF will true up our fiscal impact in subsequent budget submittals if the legislation is enacted into law.

Section 15: Indeterminate

Total cost for this section is Indeterminate due to potential increased length of stay in foster care for children/youth in a small number of cases in which a parenting plan is contested Family Court and must be amended to discharge a case in Juvenile Court. Unequal access to legal representation for parents who do not have a right to counsel under the bill could result in cases lingering in care longer when one parent in the case has an attorney and the parent with which DCYF is seeking reunification does not.

Section 19: No Impact

DCYF assumes that it can absorb the cost of coordinating with HCA on substance use disorder training.

Section 20: \$2,304,000 GFS in the 23-25BN

Currently, there are 1,500 DCYF caseworkers and employees that may come in contact with individuals experiencing overdose. DCYF may be able to purchase an overdose kit at a discounted cost rate of \$64 per kit (actual cost may vary). Estimating one kit per month for 1,500 employees; $1,500 \times \$64 \times 12 = \$1,152,000$ per year.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000
Total \$			1,152,000	1,152,000	2,304,000	2,304,000	2,304,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Children and Family Services (010)	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000
Total \$	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

None.

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

None

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 310-Department of Corrections
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
Account					
General Fund-State 001-1	2,760	0	2,760	0	0
Total \$	2,760	0	2,760	0	0

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: James Cerna	Phone: (360) 725-8428	Date: 02/23/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 02/23/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/23/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Proposed substitute 5536 S SB Revises the following from the 5536 SB:

Section 1 is a new section, the legislature considers substance use disorders a public health issue with solutions not only address this issue with criminal legal response, but also data, evidence based and best practices. Follow principles of self-harm reduction with practical strategies aimed at reducing negative consequences of drug use.

Sections 2-5 a stipulation has been added to each section requiring the court to advise defendant of the pretrial diversion program in Section 9(1) of the act upon arraignment.

Section 6 adds the term “Knowingly” for probable cause that a controlled substance is being possessed”.

Section 7 contracts the definition of a class I civil infraction regarding drug paraphernalia. Additionally removes testing and analyzing from the definition of drug paraphernalia. Also adds public health supplies, smoking equipment, and drug testing equipment from prohibited distribution.

Section 9 is a new section requiring the court to advise the defendant and his/her attorney the pretrial diversion program for certain drug offenses. Additionally describes the pretrial diversion program and states if the defendant successfully completes pretrial diversion, the criminal possession charge or charges must be dismissed.

Section 29 is a new section which read as follows: Sections 8 through 10 and 12 of this act expire on the effective date of this section.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

We assume this bill will have a fiscal impact to DOC less than \$50,000 per Fiscal Year (FY).

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, since misdemeanor offenses are punishable by a term of confinement of 0-90 days in jail and gross misdemeanor offenses are punishable by a term of confinement of 0-364 days in jail, any impact of the change from current sentencing would manifest itself as a potential increased need for jail beds only.

However, the bill also adds that the prosecutor is encouraged to divert such cases to assessment, treatment, or other

services. Law enforcement is encouraged to offer a referral to assessment and services. Upon arraignment for a violation for possession offenses, the court is required to advise the defendant of the pretrial diversion program established in the bill. For individuals who completes pretrial diversion, the criminal possession charge or charges must be dismissed. It is unknown if confinement time will increase or decrease from current practice as individuals as the court may terminate pretrial diversion if the defendant is not meaningfully engaging in the recommended treatment or services or is convicted of an intervening crime. Individuals who successfully complete a substance use disorder treatment program shall have their offense vacated by the court

The Caseload Forecast Council (CFC) has no information concerning how many incidents of knowingly possess a controlled substance may occur. As such, the CFC cannot reliably predict bed impacts resulting from the bill.

The DOC assumes this bill would likely result in an Average Daily Population (ADP) increase, although the impact cannot be reliably estimated. Therefore, the fiscal impact is indeterminate, assumed to be less than \$50,000 per FY.

Customization of the Offender Management Network Information (OMNI) system is needed to meet the requirements of this legislation. Due to the complexity to complete the development, testing and implementation of the statutory changes, contracted services are necessary in FY2024.

To implement this legislation, OMNI data tables need to be updated to RCW for technical corrections.

Cost Calculation Estimate:

IT Application Developer| \$120 per hour x 10 hours = \$1,200

IT Quality Assurance| \$120 per hour x 8 hours = \$960

IT Business Analyst| \$120 per hour x 5 hours = \$600

Total One-Time Costs - FY2024 \$2,760

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	2,760	0	2,760	0	0
Total \$			2,760	0	2,760	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts	2,760		2,760		
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	2,760	0	2,760	0	0

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative & Support Services (100) (100)	2,760		2,760		
Total \$	2,760		2,760		

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 360-University of Washington
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.0	0.0
Account					
General Fund-State 001-1	8,898	4,449	13,347	0	0
Total \$	8,898	4,449	13,347	0	0

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Charlotte Shannon	Phone: 2066858868	Date: 02/15/2023
Agency Approval: Charlotte Shannon	Phone: 2066858868	Date: 02/15/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 02/15/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

S SB 5536 concerns justice system and behavioral health responses for persons experiencing circumstances that involve controlled substances, counterfeit substances, legend drugs, drug paraphernalia, and provides treatment options.

In addition, the substitute bill adds Section 28, which establishes a Safe Supply Work Group to evaluate potential models for safe supply services and make recommendations for a regulated, tested supply of controlled substances to individuals at risk of overdose. The work group will be Governor-appointed and is required to include a representative from the University of Washington Addictions, Drug, and Alcohol Institute (ADAI).

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

SECTION 28

This section establishes the Safe Supply Work Group at the Health Care Authority and requires a representative from the ADAI. The Safe Supply Work Group will be staffed by the Health Care Authority and will evaluate the concept and evidence of safe supply, and potential risks and benefits. A preliminary report and recommendations are due to the Governor and appropriate legislative committees by December 1, 2023. A final report is due December 1, 2024.

A University of Washington (UW) representative from ADAI will participate in the Safe Supply Work Group. We estimate this participation to require 0.03 FTE for the entire 18-month period, assuming a monthly one-hour meeting and additional work preparing for and following up on meetings (annual salary: \$172,200, benefits rate: 24.1%). The UW also assumes quarterly travel to Olympia for in-person meetings, for an additional \$525 cost in mileage reimbursement.

TOTAL FISCAL IMPACTS OF S SB 5536:

\$8,898 in FY24

\$4,449 in FY25

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	8,898	4,449	13,347	0	0
Total \$			8,898	4,449	13,347	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0		
A-Salaries and Wages	6,888	3,444	10,332		
B-Employee Benefits	1,660	830	2,490		
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel	350	175	525		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	8,898	4,449	13,347	0	0

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
ADAI Faculty	172,200	0.0	0.0	0.0		
Total FTEs		0.0	0.0	0.0		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 376-The Evergreen State College
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.2	0.4
Account					
General Fund-State 001-1	0	0	0	71,110	204,037
Total \$	0	0	0	71,110	204,037

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Catherine Nicolai	Phone: (360) 664-9087	Date: 02/15/2023
Agency Approval: Dane Apalategui	Phone: 360-867-6517	Date: 02/15/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 02/15/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Sec. 22 of SSB 5536 directs the Health Care Authority to contract with the Washington State Institute for Public Policy (WSIPP) to "conduct a study of the long-term effectiveness of the recovery navigator program under RCW 71.24.115." WSIPP "shall collaborate with the authority and substance use recovery services advisory committee under RCW 71.24.546 on the topic of data collection and to determine the parameters of the report, which shall include recommendations, if any, for modification and improvement of the recovery navigator program."

Reports are due by June 30, 2028, June 30, 2033, and June 30, 2038.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Sec. 22 of SSB 5536 directs the Health Care Authority to contract with WSIPP to complete a study. The cost detailed below is what WSIPP would expect to be covered in a contract with HCA.

In order to complete the study outlined in Sec. 22 of SSB 5536, WSIPP would assign the following resources:

FY 27:

-0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.

-0.06 FTE Methods Review to develop a study plan.

-Assumes \$1,750 in WSIRB fees.

FY 28:

-0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.

-0.06 FTE Methods Review for methodological review.

-0.06 FTE Editing/Publication for report publication.

-Assumes \$50,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

FY 32—Total cost for FY32 is \$76,628: \$53,324 in salaries, \$14,844 in benefits, \$8,210 in goods and services, and \$250 in WSIRB fees.

-0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.

-0.06 FTE Methods Review to develop a study plan.

-Assumes \$250 in WSIRB fees.

FY33—Total cost for FY33 is \$199,256: \$113,864 in salaries, \$31,793 in benefits, \$21,349 in goods and services, and \$32,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

-0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.

- 0.06 FTE Methods Review for methodological review.
- 0.06 FTE Editing/Publication for report publication.
- Assumes \$32,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

FY37—Total cost for FY37 is \$84,574: \$58,874 in salaries, \$16,389 in benefits, \$9,062 in goods and services, and \$250 in WSIRB fees.

- 0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.
- 0.06 FTE Methods Review to develop a study plan.
- Assumes \$250 in WSIRB fees.

FY38—Total cost for FY38 is \$221,611: \$125,715 in salaries, \$35,102 in benefits, \$23,744 in goods and services, and \$36,800 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

- 0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.
- 0.06 FTE Methods Review for methodological review.
- 0.06 FTE Editing/Publication for report publication.
- Assumes \$36,800 in data fees for the Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

The total cost to complete the assignment would be \$857,218.

*Goods and other services include a 12% indirect rate for The Evergreen State College.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	0	0	71,110	204,037
Total \$			0	0	0	71,110	204,037

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years				0.2	0.4
A-Salaries and Wages				48,297	103,130
B-Employee Benefits				13,444	28,796
C-Professional Service Contracts					
E-Goods and Other Services				7,619	21,861
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Data/WSIRB fees				1,750	50,250
Total \$	0	0	0	71,110	204,037

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Editing/Publication	107,544					0.0
Methods Review	120,984				0.0	0.0
Researcher	107,544				0.2	0.4
Total FTEs					0.2	0.4

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Revised

Bill Number: 5536 S SB	Title: Controlled substances	Agency: 468-Environmental and Land Use Hearings Office
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 02/16/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 02/16/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 02/16/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Revised to add 10-year analysis indicating no cash receipts

Section 11. RCW 36.70A.200 is amended to include an expanded definition of “essential public facilities” under (1)(a) to include: “substance use disorder treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs, excluding safe injection sites, that emphasize working directly with people who use drugs to prevent overdose and infectious disease transmission, improve the physical, mental, and social well-being of those served, and offer low threshold options for accessing substance use disorder treatment and other health care services....”

This change in definition does not change the fundamental character of existing public facilities in a way that would result in additional appeals to the Growth Management Hearings Board (GMHB) under the Growth Management Act (GMA).

NO FISCAL IMPACT to the GMHB anticipated.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

None

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5536 S SB	Title: Controlled substances
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:** Approximately \$3,270,000 to update comprehensive plans; approximately \$442,860 to provide training to law enforcement officers on modified criminal offenses, referral requirements and other procedures; indeterminate expenditure impact on local law enforcement due to processing incidents of upgraded gross misdemeanor offense; indeterminate expenditure impact due to change in demand for jail beds; indeterminate expenditure impact resulting from increased demand for services from alternative response and arrest and jail alternative programs; approximately \$125,084 in reduced property tax revenue through 2029 as a result of new exemption
- Counties:** Approximately \$1,400,000 to update comprehensive plans; approximately \$134,400 to provide training to law enforcement officers on modified criminal offenses, referral requirements and other procedures; indeterminate expenditure impact on law enforcement, prosecutors, and public defenders as a result of processing incidents of upgraded gross misdemeanor offense; indeterminate expenditure impact on prosecutors and public defenders as a result of new sentencing requirements; indeterminate expenditure impact due to change in demand for jail, juvenile detention beds; indeterminate expenditure impact due to change in demand for jail beds; indeterminate expenditure impact resulting from increased demand for services from alternative response and arrest and jail alternative programs; approximately \$153,770 in reduced property tax revenue through fiscal year 2029 as a result of new exemption
- Special Districts:** Approximately \$141,146 in reduced property tax revenue through fiscal year 2029 as a result of new exemption
- Specific jurisdictions only:**
- Variance occurs due to:**

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:** Approximately \$4,670,000 to update comprehensive plans; approximately \$577,200 to train local law enforcement officers on modified criminal offenses, referral requirements and other procedures
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time:** Number of incidents of upgraded gross misdemeanor offense that may occur; net change in demand for prosecutor, public defender time that may result from diversion language in section 9; change in demand for services from alternative response and arrest and jail alternative programs

Estimated revenue impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	(9,530)	(19,354)	(28,884)	(44,079)	(52,121)
County	(11,716)	(23,800)	(35,516)	(54,185)	(64,069)
Special District	(10,754)	(21,846)	(32,600)	(49,736)	(58,810)
TOTAL \$	(32,000)	(65,000)	(97,000)	(148,000)	(175,000)
GRAND TOTAL \$					(420,000)

Estimated expenditure impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	1,725,360	1,080,000	2,805,360	907,500	
County	534,400	500,000	1,034,400	500,000	
TOTAL \$	2,259,760	1,580,000	3,839,760	1,407,500	
GRAND TOTAL \$					5,247,260

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 02/21/2023
Leg. Committee Contact: Kevin Black	Phone: (360) 786-7747	Date: 02/09/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/21/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/21/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The proposed substitute bill includes several changes from the original bill.

Sections 2 through 5 include additional examples of the kinds of programs that law enforcement would be encouraged to offer referrals to instead of jail booking for the offenses those sections pertain to.

Section 7 adds drug testing equipment to the list of public health supplies exempted from the definition of prohibited drug paraphernalia under RCW 69.50.4121.

Sections 9 and 10 include modified language concerning the diversion program that section 9 would create, replacing mentions of satisfactory performance in a treatment program as a condition for continuing participation in the diversion program with mentions of meaningful engagement with a treatment program as such a condition.

Section 15 would establish the right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings.

Section 17 would create a property tax exemption for nonprofit organizations that maintain an approved recovery residence and that meet certain conditions. This exemption would apply for taxes levied for collection in calendar years 2024 through 2033.

Section 28 would create a safe supply workgroup “to evaluate potential models for safe supply services and make recommendations on inclusion of a safe supply framework in the Washington state substance use recovery services plan.”

SUMMARY OF CURRENT BILL:

The proposed legislation would amend several RCW sections related to drug possession and prescribe penalties, among other changes.

Section 2 would amend RCW 69.50.4011, specifying that knowing possession of a counterfeit substance is a gross misdemeanor.

Section 3 would amend RCW 69.50.4013, specifying that knowing possession of a controlled substance under certain circumstances, or knowing possession of “cannabis, cannabis-infused products, or cannabis concentrates” by someone under 21 is a gross misdemeanor.

Section 4 would amend RCW 69.50.4014, specifying that “any person found guilty of knowing possession of 40 grams or less of cannabis is guilty of a misdemeanor.”

Section 5 would amend RCW 69.41.030, specifying that knowing possession of a legend drug under certain circumstances is a misdemeanor.

Sections 2 through 5 would specify that “law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement,” and that “upon arraignment for a violation of this section involving knowing possession, the court shall advise the defendant of the availability of the pretrial diversion program as indicated in section 9 (1) of this act.” Prosecutors would also be “encouraged to divert such cases for assessment, treatment, or other services.”

Section 6 would amend RCW 69.50.509, specifying that judges shall authorize warrants for search and seizure based on a sworn complaint of knowing possession of any controlled substance in violation of chapter 69.50 RCW.

Section 7 would amend RCW 69.50.4121, removing giving or allowing drug paraphernalia to be given from the definition of actions that constitute a class I civil infraction, and adding smoking and drug testing equipment to the list of items that may be legally distributed “through public health and community-based HIV prevention programs, and pharmacies.”

Section 8 would add a new section to chapter 69.50 RCW, specifying that the state of Washington “fully occupies and preempts the entire field of drug paraphernalia regulation within the boundaries of the state including regulation of the use, selling, giving, delivery, and possession of drug paraphernalia.”

Section 9 would add a new section to chapter 69.50 RCW, requiring courts to advise individuals charged with violations of RCW 69.50.4011(1)(b), 69.50.4013, 14 69.50.4014, or 69.41.030 of the pretrial diversion program. This section would define certain required criteria for such notification.

This section would also specify that if an individual agrees “to waive his or her right to a speedy trial and trial by jury if granted pretrial diversion, the court may grant the motion and continue the hearing and refer the defendant for a diagnostic investigation and evaluation to an approved substance use disorder treatment program as designated in chapter 71.24 RCW.” Subject to the availability of appropriated funds, this investigation and evaluation would be required to be provided at no cost to an individual deemed to be indigent.

Finally, this section would describe requirements related to the above diversion program and any violations of its conditions, and would require that individuals who successfully complete this program and meaningfully engage with recommended treatment or services have their charges dismissed.

Section 10 would amend RCW 9.96.060, requiring that a court vacate the conviction or convictions of “an individual who is convicted of a violation of RCW 28 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030 who subsequently engages with a substance use disorder treatment program” if the court verifies the individual’s proof of completion.

Section 11 would amend RCW 36.70A.200, adding programs that include “opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance use disorder treatment facilities” under the definition of essential public facilities. The comprehensive plans of certain cities and counties are required to include a process for identifying and siting such facilities.

Section 12 would amend RCW 71.24.590, specifying that “Counties and cities may require conditional use permits with reasonable conditions for the siting of programs only to the extent that such reasonable conditional use requirements applied to opioid treatment programs are similarly applied to other essential public facilities and health care settings.” This section would also specify that “no city or county legislative authority may impose a maximum capacity for an opioid treatment program.”

Section 14 would repeal RCW 10.31.115.

Section 15 would add a new section to chapter 26.12 RCW, establishing the right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings.

Section 17 would amend RCW 84.36.043, creating a property tax exemption for nonprofit organizations that maintain an approved recovery residence and that meet certain conditions.

Section 28 would add a new section to chapter 71.24 RCW, creating a safe supply workgroup “to evaluate potential models for safe supply services and make recommendations on inclusion of a safe supply framework in the Washington state substance use recovery services plan.”

Section 29 would specify that sections 8 through 10, and 12 of Chapter 311, Laws of 2021 would expire on the effective date of the proposed legislation.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

CHANGES IN EXPENDITURE IMPACT BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The substitute bill would create two new sources of local government expenditure impact compared with the original bill: the access to court-appointed counsel that would be provided by section 15 and the safe supply workgroup that section 28 would create.

Section 15 would establish the right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings. While counsel in these circumstances would be provided at court expense, it is unknown in how many cases counsel may be appointed, how much attorney time a given proceeding may require, or what rates contracted attorneys may be compensated at. Accordingly, the local government expenditure impact of section 15 of the substitute bill is indeterminate.

Section 28 would create a safe supply workgroup “to evaluate potential models for safe supply services and make recommendations on inclusion of a safe supply framework in the Washington state substance use recovery services plan,” which would be required to include a representative of local government. The workgroup would be required to produce a preliminary report by December 1, 2023 and a final report by December 1, 2024. It is unknown, however, which local government representative may be chosen for the workgroup, what level of participation would be required, or whether workgroup members may be compensated or reimbursed for any travel that may be required, so the local government expenditure impact of participation in the safe supply workgroup is indeterminate.

EXPENDITURE IMPACT OF CURRENT BILL:

The proposed legislation would have both determinate and indeterminate impacts on local government expenditures.

According to the Washington Association of Sheriffs and Police Chiefs (WASPC), all local law enforcement officers would need to go through training regarding the modifications this bill would make to existing criminal offenses, and the changes it would make to referral requirements and other current procedures. WASPC estimates that approximately one hour of training would be required per law enforcement officer. This training would require a one-time cost of \$442,860 for cities and \$134,400 for counties, for a total one-time cost to local governments of \$577,260.

The 2021 Crime in Washington Report conducted by WASPC states that there are 6,710 commissioned officers in police departments and 2,240 commissioned officers in sheriff’s departments, for a total of 8,950 commissioned law enforcement employees that would require training. The 2023 Local Government Fiscal Note Program Criminal Justice Cost Model estimates the average hourly salary (including benefits and overhead) for an officer employed by a city to be \$66, and the same figure for an officer employed by a county to be \$60. If every officer in Washington had to complete approximately one hour of training, the cost to local governments would be:

Cities:

6,710 officers X 1 hour X \$66 = \$442,860

Counties:

2,240 officers X 1 hour X \$60 = \$134,400

Total:

\$442,860 + \$134,400 = \$577,260

Training materials and time required may differ among different departments, however.

According to the Washington State Caseload Forecast Council’s (CFC) fiscal note on this bill, raising knowing possession of a counterfeit or controlled substance from a misdemeanor to a gross misdemeanor could increase demand for jail beds.

Gross misdemeanors are punishable by a term of confinement of 0-364 days in jail, while misdemeanors are punishable by a term of confinement of 0-90 days in jail.

However, since CFC does not collect data on misdemeanor and gross misdemeanor offenses, it cannot predict the jail bed impacts resulting from this bill. In addition, section 9 would require courts to advise people charged with violations of sections 2 through 5 of the option to enter a pre-trial diversion program, which could decrease demand for jail beds. People who violate the conditions of this program could have their case proceed to trial and face a sentence of a term of confinement in jail. Accordingly, the associated expenditure impact on local governments stemming from a change in demand for jail beds as a result of the proposed legislation is indeterminate. The 2023 Local Government Fiscal Note Program Criminal Justice Cost Model estimates that the average daily cost of occupying a jail bed is \$145.

According to the CFC fiscal note for this bill, continuing to classify knowing possession of a counterfeit or controlled substance as criminal offenses could also increase demand for county juvenile detention beds. The proposed legislation would not amend the juvenile sentencing grid, so possession of a controlled substance would be a category C offense, punishable by between 0-30 days in juvenile detention and 52 weeks in juvenile rehabilitation, beginning July 1, 2023. The Local Government Fiscal Note Program does not have detailed information on the costs of juvenile detention, however the average daily rate for juvenile detention beds is generally higher than the same figure for a jail bed. Additionally, it is unknown how many future juvenile incidents of knowing possession of a counterfeit or controlled substance may occur as a result of this bill's provisions, or how many juveniles may enter pre-trial diversion per section 9, so the resulting impact on county juvenile detention expenditures is indeterminate.

In addition to bed impacts, upgrading knowing possession of a counterfeit or controlled substance could also increase law enforcement, prosecution and public defense expenditures as a result of processing incidents of the upgraded offenses. According to the 2023 Local Government Fiscal Note Program Criminal Justice Cost Model, the combined law enforcement, prosecution and public defense costs to process an incident of a misdemeanor, and a gross misdemeanor are as follows:

Misdemeanor: \$2,073

Gross misdemeanor: \$5,660

However, given that it is unknown how many incidents of the upgraded offenses may occur, the magnitude of the expenditure impacts on local governments from processing incidents of these offenses is indeterminate.

The Washington Association of Prosecuting Attorneys (WAPA) indicates that the new sentencing requirements that section 9 of the proposed legislation would create could require additional prosecutor time. While it is unknown what the implementation details of the pre-trial diversion program this section references might be, WAPA indicates that it could be structured in a similar way to existing county drug courts. According to WAPA, diversion supervision typically requires time from a prosecutor, a probation officer or other court staffer, a defender, and in some cases, a judge. These supervision cases often require regular meetings, however the total time required of participating parties in a given case can vary. It is reasonable to assume such cases would require a similar amount of time from both prosecutors and public defenders.

If a person who entered a pre-trial diversion program under section 9 of the bill were to be found to be "not meaningfully engaging in the recommended treatment or services," or if they were convicted of an offense that reflects a propensity for violence, or a felony, that person would face trial, requiring additional prosecutor and public defender time.

It is unknown, however, how many people may choose to enter the pre-trial diversion program under section 9 of the proposed legislation, and how many of those people may violate the conditions of the program and require a subsequent

trial. It is also unknown how the time required for a diversion case would compare with the time that would not be required for a trial. Finally, under the requirements of Chapter 311, Laws of 2021, prosecutors are already “encouraged to divert” cases concerning knowing drug possession “for assessment, treatment, or other services,” and the proposed legislation would keep that language. It is unknown if or how section 9 of the proposed legislation may change the number of people who enter pre-trial diversion compared to the present.

Accordingly, the local government expenditure impact resulting from any changes in demand for prosecutor and public defender time related to section 9 of the proposed legislation is indeterminate. The 2023 Local Government Fiscal Note Program Unit Cost Model estimates that the average hourly salary plus benefits and overhead for a prosecuting attorney is \$82.

Both the diversion program under section 9 and the language in sections 2-5 encouraging law enforcement to offer referrals to assessment and services in lieu of arrest and jail booking for the possession offenses in those sections could create additional local government expenditures.

The Administrative Office of the Courts' fiscal note for this bill, which reflects the impacts of the proposed legislation on both superior courts and courts of limited jurisdiction (CLJs), assumes that cases diverted under section 9 would be diverted into therapeutic courts, and estimates an additional annual expenditure impact of \$7,083,000 for city CLJs and \$9,917,000 for county CLJs.

The Association of Washington Cities (AWC) indicates that the language in sections 2-5 encouraging law enforcement to offer referrals to assessment and services in lieu of arrest and jail booking for the possession offenses in those sections could create additional demand for services from the existing alternative response, and arrest and jail alternative programs that some cities and local law enforcement agencies administer. These costs would vary based on jurisdiction and how many additional participants may be directed into these programs, however, and are accordingly indeterminate. By way of illustration, a 2019 analysis found that Seattle's Law Enforcement Assisted Diversion program costs averaged between \$530 and \$900 per participant per month.

According to AWC, while the proposed legislation does not require it, some cities may choose to respond to the language in sections 2-5 and 9 by creating new alternative response, or arrest and jail alternative programs to be able to provide assessment and services to people who have interactions with law enforcement that are related to drug possession. These costs could vary widely based on the kind of program a jurisdiction may choose to set up, the existing level of resources in a jurisdiction and the number of people a program may be designed to serve. As a result of this variability, the statewide expenditure impact of setting up new alternative response, or arrest and jail alternatives, for jurisdictions that choose to do so, is indeterminate. By way of illustration, in 2022, AWC provided grants averaging \$135,000 per jurisdictions to assist in setting up alternative response programs .

Section 11 of the proposed legislation would require Growth Management Act fully planning cities and counties to update their comprehensive plans to “include a process for identifying and siting” substance use disorder treatment programs. This requirement would result in one-time costs of approximately \$3,270,000 for cities and \$1,400,000 for counties, for a total one-time cost to local governments of approximately \$4,670,000.

It is assumed that qualifying cities and counties would incur the costs of this required update during the next scheduled periodic comprehensive update specified by RCW 36.70A.130 (5). In a fiscal note for a bill that required a similar update to comprehensive plans, the Washington State Association of Counties estimated that each update would cost a qualifying county approximately \$50,000. The Association of Washington Cities estimates that the same figure for cities would be approximately \$15,000.

The following lists the numbers of cities and counties with planning deadlines at the end of calendar years 2024-2027, and the total local planning costs to update comprehensive plans in accordance with section 11 of the proposed legislation in each year:

Calendar year 2024:

$(82 \text{ cities} \times \$15,000 \text{ per update}) + (4 \text{ counties} \times \$50,000 \text{ per update}) = \$1,430,000$

Calendar year 2025:

$(48 \text{ cities} \times \$15,000 \text{ per update}) + (10 \text{ counties} \times \$50,000 \text{ per update}) = \$1,220,000$

Calendar year 2026:

$(55 \text{ cities} \times \$15,000 \text{ per update}) + (8 \text{ counties} \times \$50,000 \text{ per update}) = \$1,225,000$

Calendar year 2027:

$(33 \text{ cities} \times \$15,000 \text{ per update}) + (6 \times \$50,000 \text{ per update}) = \$795,000$

Total: \$4,670,000

These following approximate fiscal year spending estimates are based on planning work occurring two years before the submission date of a periodic update as per RCW 36.70A.130(5). These figures also assume work on the development regulations would begin 90 days after the effective date of the bill and all planning jurisdictions with 2024 and 2025 due dates would begin in fiscal year 2024.

Fiscal year 2024:

City: \$1,282,500

County: \$400,000

Combined: \$1,682,500

Fiscal year 2025:

City: \$1,080,000

County: \$500,000

Combined: \$1,580,000

Fiscal year 2026:

City: \$660,000

County: \$350,000

Combined: \$1,010,000

Fiscal year 2027:

City: \$247,500

County: \$150,000

Combined: \$397,500

Total: \$4,670,000

Section 15 would establish the right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings. While counsel in these circumstances would be provided at court expense, it is unknown in how many cases counsel may be appointed, how much attorney time a given proceeding

may require, or what rates contracted attorneys may be compensated at. Accordingly, the local government expenditure impact of section 15 of the substitute bill is indeterminate.

Section 28 would create a safe supply workgroup “to evaluate potential models for safe supply services and make recommendations on inclusion of a safe supply framework in the Washington state substance use recovery services plan,” which would be required to include a representative of local government. The workgroup would be required to produce a preliminary report by December 1, 2023 and a final report by December 1, 2024. It is unknown, however, which local government representative may be chosen for the workgroup, what level of participation would be required, or whether workgroup members may be compensated or reimbursed for any travel that may be required, so the local government expenditure impact of participation in the safe supply workgroup is indeterminate.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

CHANGES IN REVENUE IMPACT BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The proposed second substitute bill would create a new tax exemption for certain nonprofit organizations maintaining an approved recovery residence. This exemption would result in tax shifts and revenue loss for local governments, detailed below.

REVENUE IMPACT OF CURRENT BILL:

According to the Department of Revenue (DOR) this bill would result in a state levy shift to other taxpayers of an estimated \$198,000 for fiscal year 2024 and \$390,000 in fiscal year 2025, the first full fiscal year. It would also decrease local government revenue by \$32,000 for fiscal year 2024 and \$65,000 in fiscal year 2025. Please see the DOR fiscal note for this bill for its full list of assumptions and data sources.

ASSUMPTIONS AND METHODOLOGY:

Tax Shift and Revenue Loss:

Tax exemptions lower the taxable value against which taxing districts levy their taxes. When exemptions are enacted, taxing districts may compensate for the loss in taxable value by increasing the tax rate for taxpayers who are not eligible for the exemptions. Consequently, taxpayers who do not benefit from the exemption would pay a higher tax. This higher tax results in a tax shift from the exempt taxpayers to the non-exempt taxpayers. However, when a taxing district is restricted from increasing the tax rate due to a levy limit, the taxing district incurs a revenue loss. Local government revenue losses were computed by taking the DOR fiscal note data and multiplying the result by the property tax distribution for counties, cities and special districts. These percentages are derived from DOR Property Tax Statistics for 2022.

Calendar Year versus Fiscal Year:

Note that a tax shift is presented by calendar year (CY) and a revenue loss is presented by fiscal year (FY). Taxes are assessed and collected by the counties on a calendar-year basis. When a tax shift occurs, it is computed for the calendar year. Because revenue and expenditures are reported on a fiscal year basis, the revenue loss is also for a fiscal year. Tax shift figures for special districts include school districts; school districts do not experience a revenue loss.

REVENUE CHANGE BREAKDOWN:

COUNTIES:

FY 2024 -\$11,716
FY 2025 -\$23,800
FY 2026 -\$25,994
FY 2027 -\$28,191
FY 2028 -\$30,753
FY 2029 -\$33,316

CITIES:

FY 2024 -\$9,530
FY 2025 -\$19,354
FY 2026 -\$21,146
FY 2027 -\$22,933
FY 2028 -\$25,018
FY 2029 -\$27,103

SPECIAL DISTRICTS:

FY 2024 -\$10,754
FY 2025 -\$21,846
FY 2026 -\$23,860
FY 2027 -\$25,876
FY 2028 -\$28,229
FY 2029 -\$30,581

TAX SHIFT:

COUNTIES:

CY 2024 \$213,216
CY 2025 \$233,143
CY 2026 \$255,062
CY 2027 \$278,974
CY 2028 \$306,872
CY 2029 \$334,769

CITIES:

CY 2024 \$172,187
CY 2025 \$188,279
CY 2026 \$205,980
CY 2027 \$225,291
CY 2028 \$247,820
CY 2029 \$270,349

SPECIAL DISTRICTS:

CY 2024 \$684,597
CY 2025 \$748,578
CY 2026 \$818,957
CY 2027 \$895,735
CY 2028 \$985,308
CY 2029 \$1,074,881

SOURCES:

Association of Washington Cities
Crime in Washington Report, 2021
Local government fiscal note for HB 1799, 2022
Local Government Fiscal Note Program Criminal Justice Cost Model, 2023
Local Government Fiscal Note Program Tax Shift and Revenue Loss Model, 2023

Local Government Fiscal Note Program Unit Cost Model, 2023

Washington Association of Prosecuting Attorneys

Washington Association of Sheriffs and Police Chiefs

Washington State Administrative Office of the Courts

Washington State Caseload Forecast Council

Washington State Department of Revenue